

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA**

IN RE: ETHICON PELVIC REPAIR PRODUCT LIABILITY LITIGATION	:	Master File No.: 2:12-md-02327
	:	
	:	MDL 2327
THIS DOCUMENT RELATES TO CASE No.: 2:17-cv-02381	:	Joseph R. Goodwin U.S. District Court Judge
GISELA HERTSLET, et al.	:	
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
ETHICON, INC., et al.	:	
	:	
Defendants.	:	

**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION FOR ORDER
REGARDING DISPOSITION OF NON-REVISION GYNECARE TVT PRODUCTS
CASES**

COMES NOW the Plaintiff, by and through her undersigned counsel, and hereby submits this response to Defendants' Motion for Order Regarding Disposition of Non-revision Gynecare TVT Products Cases filed in this court on March 2, 2018, (Doc. 5313) and in support thereof states as follows:

Defendant Ethicon, Inc., filed *Defendants' Motion for Order Regarding Disposition of Non-revision Gynecare TVT Products Cases* in this court on March 2, 2018, (Doc. 5313), seeking an Order of Court for disposition of cases involving Gynecare TVT Products where a "revision surgery" has not yet occurred. A proposed Order accompanied that Motion as well as an Exhibit A of all current cases pending wherein a revision surgery has not yet occurred.

The above named Plaintiff was included on Exhibit A of Defendants' Motion as one such Plaintiff who had not had a revision surgery.

Plaintiff contends that she should not be included in the list of non-revised Plaintiffs as she has had various in-office procedures and other treatment relative to

complications from the implanted product in question, and she has also been previously recommended for and in fact had a revision surgery scheduled but opted out at the last minute based on her physician's warning of a potential worsening of her already complicated condition resulting from her product. The revision surgery is still recommended and the Plaintiff may well need this and an additional more invasive revision or repair surgery in the near future as currently being addressed with her physician. Plaintiffs' counsel has notified Ethicon of this fact and is in the process of obtaining supporting documentation from the Plaintiff's treating physician to provide in support of the same.

Based on the Defendants' narrowly proposed definition of "revised" TVT plaintiffs, the Plaintiff in this matter will be unfairly prejudiced if she is forced to undergo a recommended surgery solely for the purpose of keeping her matter active but also at the potential expense of her already worsening condition, and as such she should be included as a "revised" Plaintiff for the purpose of this litigation. Alternatively, because the currently proposed Order of the Defendants' includes in its definition of future revised plaintiffs a "recommendation" for revision surgery, which has already happened in this case, Plaintiff hereby requests the Court to consider expanding the definition of revised plaintiffs to include any who have had a recommendation for revision surgery but have opted not to do so for valid health and well-being concerns.

Plaintiff files this response to preserve her claim and avoid dismissal to the extent the Defendants' motion is granted and pending consideration of the additional relief requested herein.

Respectfully submitted,

**LAW OFFICES OF ANDREW N. SINDLER,
LLC**

Date: March 16, 2018

By: /S/ Andrew N. Sindler, Esq.
Andrew N. Sindler, #16743
P.O. Box 1107
Severna Park, MD 21146
410-274-4777
877-279-0577 (Fax)
Andrewsindler@gmail.com
Attorneys for the Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was submitted through the Court's e-filing system to the Clerk of the Court via CM/ECF procedures, which will send notification of such filing electronically to all CM/ECF participants registered to receive filings in this MDL.

Respectfully submitted,

**LAW OFFICES OF ANDREW N. SINDLER,
LLC**

Date: March 16, 2018

By: /S/ Andrew N. Sindler, Esq.
Andrew N. Sindler, #16743
P.O. Box 1107
Severna Park, MD 21146
410-274-4777
877-279-0577 (Fax)
Andrewsindler@gmail.com
Attorneys for the Plaintiff